

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

MXGO TECHNOLOGIES, INC.,

Plaintiff,

v.

1&1 MAIL & MEDIA, INC. D/B/A MAIL.COM;  
BIGFOOT COMMUNICATIONS LLC D/B/A  
BIGFOOT COMMUNICATIONS LTD. D/B/A  
BIGFOOT FOR LIFE, INC. GODADDY.COM, INC.;  
MAIL2WORLD, INC.; COMPUTER POWER  
SOFTWARE GROUP, INC. D/B/A MAILCENTRO,  
INC. D/B/A WEBBOX D/B/A PRONTOMAIL D/B/A/  
BRANDMAKERS, INC.; and NETWORK  
SOLUTIONS, LLC.

Defendants.

Civil Action No. 2:11-cv-00413-JRG

**DEFENDANT MAIL2WORLD, INC.'S ANSWER TO PLAINTIFF MXGO TECHNOLOGIES,  
INC.'S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Defendant MAIL2WORLD, INC. ("MAIL2WORLD" or "Defendant"), through its attorneys, hereby answers the Second Amended Complaint of Plaintiff MXGO TECHNOLOGIES, INC. ("MXGO" or "Plaintiff").

**PARTIES**

1. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 1, and therefore denies the allegations.

2. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 2, and therefore denies the allegations.

3. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 3, and therefore denies the allegations.

4. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 4, and therefore denies the allegations.

5. MAIL2WORLD admits that it has a place of business in Los Angeles, California.

6. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 6, and therefore denies the allegations.

7. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 7, and therefore denies the allegations.

#### **JURISDICTION AND VENUE**

8. MAIL2WORLD admits that the Court has subject matter jurisdiction. MAIL2WORLD also admits that it has an interactive website accessible in this forum. MAIL2WORLD denies the remaining allegations in Paragraph 8 as those allegations pertain to MAIL2WORLD. Regarding the other Defendants, MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 8, and therefore denies the allegations.

9. MAIL2WORLD admits that the Court has subject matter jurisdiction. MAIL2WORLD also admits that it has an interactive website accessible in this forum. MAIL2WORLD does not presently intend to contest that venue is proper in this forum. MAIL2WORLD denies the remaining allegations in Paragraph 9 as those allegations pertain to MAIL2WORLD. Regarding the other Defendants, MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 9, and therefore denies the allegations.

#### **COUNT I**

**INFRINGEMENT OF U.S. PATENT NO. 7,062,538**

10. MAIL2WORLD admits that, on its face, U.S. Patent No. 7,062,538 (“the ‘538 patent”) is titled “Server that Obtains Information from Multiple Sources, Filters Using Client Identities, and Dispatches to Both Hardwired and Wireless Clients.” MAIL2WORLD also admits that the ‘538 patent bears an issue date of June 13, 2006. MAIL2WORLD denies the remaining allegations in Paragraph 10.

11. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 11, and therefore denies the allegations.

12. Paragraph 12 sets forth legal conclusions that require no response. MAIL2WORLD denies any remaining allegations.

13. Paragraph 13 sets forth legal conclusions that require no response. MAIL2WORLD denies any remaining allegations.

14. MAIL2WORLD denies the allegations in Paragraph 14 as they pertain to MAIL2WORLD. Regarding the other Defendants, MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 14, and therefore denies the allegations.

15. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 15, and therefore denies the allegations.

16. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 16, and therefore denies the allegations.

17. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 17, and therefore denies the allegations.

18. MAIL2WORLD denies the allegations in Paragraph 18.

19. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 19, and therefore denies the allegations.

20. MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 20, and therefore denies the allegations.

21. MAIL2WORLD denies that MXGO has reserved any rights by making the statement contained in Paragraph 21. MAIL2WORLD denies any other allegations.

22. MAIL2WORLD denies that MXGO has reserved any rights by making the statement contained in Paragraph 22. MAIL2WORLD denies any other allegations.

23. MAIL2WORLD denies that MXGO has reserved any rights by making the statement contained in Paragraph 23. MAIL2WORLD denies any other allegations.

24. MAIL2WORLD denies the allegations in Paragraph 24 to the extent those allegations pertain to MAIL2WORLD. To the extent the allegations apply to the other Defendants, MAIL2WORLD lacks information sufficient to admit or deny the allegations in Paragraph 24, and therefore denies the allegations.

#### **PLAINTIFF'S PRAYER FOR RELIEF**

To the extent Plaintiff's prayer for relief contains any allegations, MAIL2WORLD denies those allegations.

#### **AFFIRMATIVE DEFENSES**

MAIL2WORLD asserts the following defenses to Plaintiff's allegations.

##### **FIRST AFFIRMATIVE DEFENSE (NON-INFRINGEMENT)**

MAIL2WORLD does not directly or indirectly infringe any claim of the '538 patent.

##### **SECOND AFFIRMATIVE DEFENSE (INVALIDITY)**

The '538 patent is invalid and/or unenforceable for failing to meet the requirements of at least 35 U.S.C. §§ 101, 102, 103 and/or 112.

**THIRD AFFIRMATIVE DEFENSE (LACHES/ESTOPPEL)**

Plaintiff's claims are barred due to laches and equitable estoppel.

**COUNTERCLAIMS**

For its counterclaims, MAIL2WORLD alleges as follows:

1. The Counterclaims below arise under the Declaratory Judgment Act, 28 U.S.C. § 2201, et seq. and the Patent Laws of the United States, 35 U.S.C. § 1, et seq.

**THE PARTIES**

2. MAIL2WORLD is a corporation organized under the laws of California, and has a principal place of business at 10960 Wilshire Blvd., Suite 990, Los Angeles, CA 90024.

3. Plaintiff alleges that it has a place of business in Santa Clara, California.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201(a), and 2202 and the Patent Laws of the United States, 35 U.S.C. § 1, et seq.

5. This Court has personal jurisdiction over MXGO by virtue of, among other things, MXGO's filing of its complaint in this Court.

6. Without waiving any right to move or transfer this action pursuant to 28 U.S.C. § 1404 or otherwise and expressly reserving all rights in this regard, venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

7. By virtue of the allegations in MXGO's Complaint in this action and MAIL2WORLD's answer thereto, an actual controversy exists between MAIL2WORLD and MXGO as whether the '538 patent is invalid, not infringed, and enforceable.

**COUNT I – NON-INFRINGEMENT**

8. MAIL2WORLD restates and incorporates by reference each of the allegations of Paragraphs 1 through 7 of its Counterclaims.

9. MXGO claims to be the owner of all right, title, and interest in the '538 patent.

10. MXGO alleges infringement of the '538 by MAIL2WORLD.

11. MAIL2WORLD and the customers using its products or services are not infringing and have not infringed any claim of the '538 patent.

**COUNT 2 – DECLARATION OF INVALIDITY**

12. MAIL2WORLD restates and incorporates by reference each of the allegations of Paragraphs 1 through 11 of its Counterclaims.

13. One or more of the claims of the '538 is invalid for failure to satisfy one or more of the conditions for patentability set forth in Title 35 of the United States Code including, without limitation, §§ 101, 102, 103 and/or 112.

**MAIL2WORLD'S PRAYER FOR RELIEF**

WHEREFORE, MAIL2WORLD prays for the following relief:

a. An order dismissing MXGO's Complaint with prejudice and denying all relief requested therein.

b. Judgment in favor of MAIL2WORLD and against MXGO on all claims asserted in MXGO's Complaint and MAIL2WORLD's Counterclaims.

c. A judgment declaring that this action is an exceptional case within the provisions of 35 U.S.C. § 285, entitling MAIL2WORLD to an award of its reasonable attorney's fees and costs.

d. That MAIL2WORLD be awarded such other and further relief as the Court may deem just and proper.

**MAIL2WORLD's DEMAND FOR JURY TRIAL**

MAIL2WORLD hereby respectfully demands a jury trial as to all such triable issues in this action.

Respectfully submitted,

Dated: June 11, 2012

By: /s/ S. Calvin Capshaw  
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Attorneys for Defendant MAIL2WORLD, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A) on this 11<sup>th</sup> day of June, 2012.

/s/ S. Calvin Capshaw